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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Mission Wellness Pharmacy,) No. CV-22-00329-PHX-SPL
Petitioner,)
vs.)
Wellpartner LLC,) **ORDER**
Respondent.)

Before the Court is Petitioner Mission Wellness Pharmacy’s (“Petitioner”) Motion to File Petition Enforcing Arbitrator’s Hearing Subpoena Under Seal (Doc. 1) and Memorandum in Support (Doc. 2) thereof. Petitioner requests that the Court: (i) grant the Motion and order the sealing of Petitioner’s Petition to Enforce Arbitrator’s Hearing Subpoena (currently lodged at Doc. 3) and (ii) order that all further filings in this case be submitted under seal. For the following reasons, the Motion will be denied.

To overcome the “strong presumption in favor of [public] access,” a party seeking to seal a judicial record must articulate justifications for sealing—that is, “compelling reasons supported by specific factual findings”—that outweigh the public policies favoring disclosure. *See Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006); *see also* LRCiv. 5.6(b) (“Any motion or stipulation to file a document under seal must set forth a clear statement of the facts and legal authority justifying the filing of the document under seal.”). A court deciding to seal judicial records must “base its decision on a compelling reason and articulate the factual basis for its ruling, without relying on

1 hypothesis or conjecture.” *Kamakana*, 447 F.3d at 1179 (quoting *Hagestad v. Tragesser*,
 2 49 F.3d 1430, 1434 (9th Cir. 1995). “In general, ‘compelling reasons’ sufficient to
 3 outweigh the public’s interest in disclosure and justify sealing court records exist when
 4 such ‘court files might have become a vehicle for improper purposes,’ such as the use of
 5 records to gratify private spite, promote public scandal, circulate libelous statements, or
 6 release trade secrets.” *Kamakana*, 447 F.3d at 1179 (citing *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978)). “The mere fact that the production of records may lead to
 7 a litigant’s embarrassment, incrimination, or exposure to future litigation will not, without
 8 more, compel the court to seal its records.” *Id.* (citing *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1136 (9th Cir. 2003)).

11 This Court “generally will not enter an order that gives advance authorization to file
 12 documents under seal that are designated for such treatment by parties under a protective
 13 order or confidentiality agreement.” LRCiv. 5.6(b). Moreover, a party’s allegation that
 14 certain documents are “confidential” or “business information” does not constitute a
 15 compelling reason and is therefore insufficient to justify sealing court records containing
 16 such documents. *Krause v. Nev. Mut. Ins. Co.*, No. 2:13-cv-00976-APG-CWH, 2013 WL
 17 3776416, at *5 (D. Nev. July 16, 2013) (citing *Kamakana*, 447 F.3d at 1179 and *F.T.C. v. AMG Servs., Inc.*, No. 2:12-cv-536-GMN-VCF, 2012 WL 3562027 (D. Nev. Aug. 15,
 18 2012)); *see also Kamakana*, 447 F.3d at 1182 (finding that conclusory statements about
 19 the content of documents—that they were confidential—did not rise to level of
 20 “compelling reasons”).

22 Here, Petitioner asserts that a seal is necessary because the arbitral subpoena
 23 Petitioner seeks to enforce contains references to or directly relates to “proprietary [and
 24 sensitive confidential] information including contract agreements, payment and
 25 remuneration data, and accounting [and financial] documents generated in connection with
 26 those activities.” (Docs. 1 at 2 & 2 at 2–3). Petitioner provides no additional details nor
 27 explanation. This Court finds that Petitioner’s position fails to meet the compelling reasons
 28 standard because Petitioner has not articulated compelling reasons supported by specific

1 factual findings that outweigh the public's right of access. Petitioner's mere references to
 2 "proprietary" and "sensitive confidential" information are insufficient to merit sealing the
 3 Petition, let alone the entire case. "Thus, the Court finds no reason why the Motion and
 4 exhibits (Doc. 1) or the Memorandum in Support [thereof] (Doc. 2) should not be made
 5 publicly available in full, with only potentially sensitive information (none of which is
 6 presently identifiable to the Court in the documents that are currently lodged) redacted."
 7 *Mission Wellness Pharmacy v. Caremark N.J. Specialty Pharmacy LLC*, No. CV-22-
 8 00331-PHX-DJH, 2022 WL 657399, at *2 (D. Ariz. Mar. 4, 2022).

9 The Court also finds that Petitioner has failed to comply with the procedures
 10 provided by Local Rule of Civil Procedure 5.6(d), including its obligation to confer with
 11 Wellpartner LLC, prior to filing its Motion to Seal. That section states,

12 Unless otherwise ordered by the Court, if a party wishes to file
 13 a document that has been designated as confidential by another
 14 party pursuant to a protective order or confidentiality
 15 agreement, or if a party wishes to refer in a memorandum or
 16 other filing to information so designated by another party, the
 17 submitting party must confer with the designating party about
 18 the need to file the document (or proposed filing) under seal
 19 and whether the parties can agree on a stipulation seeking to
 20 have the document (or proposed filing) filed under seal. If the
 21 parties are unable to agree on these issues, the submitting party
 22 must lodge the document (or proposed filing) under seal and
 23 file and serve a notice of lodging summarizing the parties'
 24 dispute and setting forth the submitting party's position,
 25 accompanied by a certification that the parties have conferred
 26 in good faith and were unable to agree about whether the
 27 document (or proposed filing) should be filed under seal.
 28 Within fourteen (14) days after service of the notice, the
 designating party must file and serve either a notice
 withdrawing the confidentiality designation or a motion to seal
 and a supporting memorandum that sets forth the facts and
 legal authority justifying the filing of the document (or
 proposed filing) under seal. If the designating party seeks to
 have the document (or proposed filing) filed under seal, the
 motion must append (as a separate attachment) a proposed
 order granting the motion to seal. No response to the motion
 may be filed. If the designating party does not file a motion or
 notice as required by this subsection, the Court may enter an
 order making the document (or proposed filing) part of the
 public record.

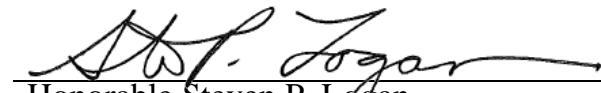
27 LRCiv. 5.6(d).
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1 Accordingly,

2 **IT IS ORDERED** that the Motion to File Petition Enforcing Arbitrator's Hearing
3 Subpoena Under Seal (Doc. 1) is **denied**. Pursuant to LRCiv. 5.6(e), the lodged documents
4 (Doc. 3) will **not** be filed. Petitioner may—within five (5) days of this Order—resubmit
5 their documents for filing in the public record, or, after conferring with Wellpartner LLC
6 in good faith, file a notice of lodging in compliance with LRCiv. 5.6(d).

7 **IT IS FURTHER ORDERED** that the Clerk of Court shall **unseal** this case and all
8 filed documents.

9 Dated this 29th day of March, 2022.

10 
11 Honorable Steven P. Logan
12 United States District Judge

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